



Virginia
Regulatory
Town Hall

townhall.state.va.us

Proposed Regulation Agency Background Document

Agency name	Department of Social Services
Virginia Administrative Code (VAC) citation	22 VAC40-293
Regulation title	Locality groupings
Action title	Establish regulation
Document preparation date	July 29, 2003

This information is required for executive review (www.townhall.state.va.us/dpbpages/apaintro.htm#execreview) and the Virginia Registrar of Regulations (legis.state.va.us/codecomm/register/regindex.htm), pursuant to the Virginia Administrative Process Act (www.townhall.state.va.us/dpbpages/dpb_apa.htm), Executive Orders 21 (2002) and 58 (1999) (www.governor.state.va.us/Press_Policy/Executive_Orders/EOHome.html), and the *Virginia Register Form, Style and Procedure Manual* (http://legis.state.va.us/codecomm/register/download/styl8_95.rtf).

Brief summary

*Please provide a brief summary of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation. Do **not** state each provision or amendment or restate the purpose and intent of the regulation.*

This regulation establishes criteria for local departments of social services to change Temporary Assistance for Needy Families (TANF) locality groupings. Each local area is placed in a locality grouping which determines payment levels for recipients of TANF in that locality. This regulation indicates the required data and the criteria to determine if a locality may switch to another locality grouping and change TANF payment levels.

Basis

Please identify the state and/or federal source of legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly bill and chapter numbers, if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

Pursuant to §63.2-217 of the Code of Virginia the State Board of Social Services has authority to promulgate rules and regulations necessary for operation of all assistance programs. The 2002 Appropriations Act, Item 353, specifies that regulations must be established for changing locality groupings.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

The current standards of need were established in 1974. There was not a mechanism for localities to change locality groupings, even though the locality groupings were based on differences in locality cost-of-living. Over time, significant changes have occurred in the development of local economies. This regulation is necessary to allow local departments of social services to change locality groupings when there is evidence to support that need. This regulation will protect families by allowing them access to greater resources when warranted.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (Provide more detail about these changes in the "Detail of changes" section.)

This regulation establishes a procedure for local departments of social services to change locality groupings. Local departments of social services must petition the state board of social services, provide Department of Housing and Urban Development fair market rent data, and evidence that the request has been shared with the local governing board. If the request is to move to a locality grouping in which payments are lower, the local department must provide evidence that the locality has a disproportionate share of TANF recipients.

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;
 - 2) the primary advantages and disadvantages to the agency or the Commonwealth; and
 - 3) other pertinent matters of interest to the regulated community, government officials, and the public.
- If there are no disadvantages to the public or the Commonwealth, please indicate.

This regulation is advantageous to the Commonwealth, local departments of social services, and recipients of TANF. Currently, there is no procedure for changing locality groupings even though there may have been significant changes in the cost-of-living in a given locality. The result is an inequitable payment structure for TANF that cannot be rectified. This regulation establishes criteria using data that is easily obtainable and readily available. This will result in a system that is more equitable to families across the Commonwealth.

Financial impact

Please identify the anticipated financial impact of the proposed regulation and at a minimum provide the following information:

Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures	There is no projected cost for this regulation. The regulation requires that the Commissioner of the Department of Social Services must certify that funds are available prior to permitting a locality to change locality groupings. If a change is made, the increase will be funded with federal TANF block grant funds.
Projected cost of the regulation on localities	No costs will be borne by localities.
Description of the individuals, businesses or other entities likely to be affected by the regulation	This regulation will effect recipients of TANF.
Agency’s best estimate of the number of such entities that will be affected	There is no indication whether any localities will change locality groupings.
Projected cost of the regulation for affected individuals, businesses, or other entities	There is no cost to individuals, businesses, or other entities.

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.

Other methods of determining locality groupings were examined. A regional, rather than locality-based method was examined, but was rejected due to the wide fluctuations it produced and the high cost. Similar results were found when criteria for changing all localities was considered in mass. Another issue was that many localities would be switched to a lower locality grouping, and therefore would automatically reduce already low TANF payments to needy citizens. The petition method of switching locality groupings on an individual locality basis was chosen as the best method to remove glaring inequities without causing great fiscal strain.

Public comment

Please summarize all public comment received during 30-day period following the publication of the NOIRA, and provide the agency response.

No comments were received.

Impact on family

Please assess the impact of the proposed regulatory action on the institution of the family and family stability.

This regulation will assist families on TANF because it provides for more equitable payment levels. In many situations, this could mean higher payments and greater resources for families in need.

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

The changes from the emergency regulation to this proposed action are:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
------------------------	--	---------------------	-------------------------------

22VAC40-293-20		The local department of social services shall provide documentation that the local governing body has reviewed the proposal to change locality groupings.	Rationale for this requirement was inserted in the regulation to make the regulation more precise.
22VAC40-293-20		The Department of Social Services must prepare a fiscal impact statement.	A time frame was established. The fiscal impact statement must be prepared prior to the following state board meeting.
22VAC40-293-20		The State Board of Social Services will approve the request if it will achieve a higher degree of equity.	Criteria for evaluating the fair market rent data was added so that the determination of achieving equity was not subjective.
22VAC40-293-20		When petitioning to change to a lower locality grouping, the locality must provide data that there is a disproportionate share of TANF recipients in the locality.	Criteria for establishing whether there is a disproportionate share of TANF recipients was added so that the determination was not subjective.